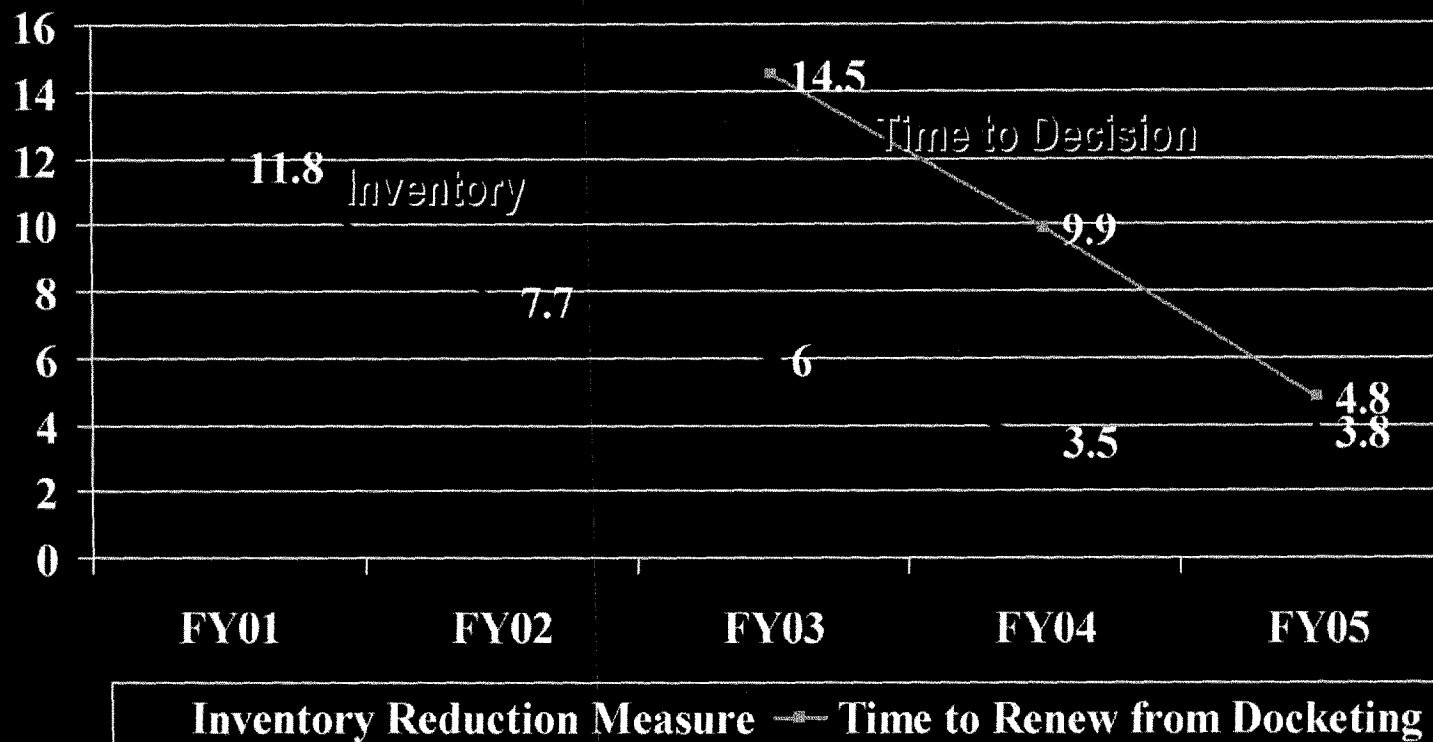


EXHIBIT 10-a



APPEAL PENDENCY FY01 – FY05



Appeal Conference Initiatives

- Pre-Brief Appeal Conference Pilot Program
 - 1296 Off. Gaz. Pat. Office 67 (July 12, 2005)
 - The USPTO is extending the program until further notice.

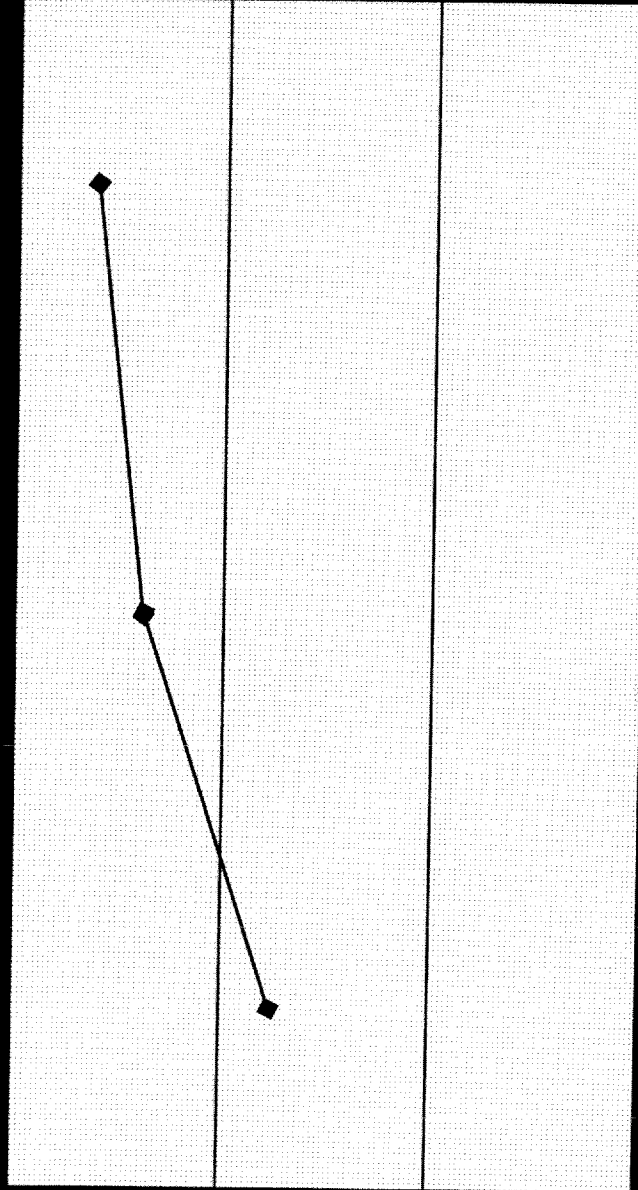
- Post-Brief Appeal Conference
 - Applies to all appeals

2. Representative Claims

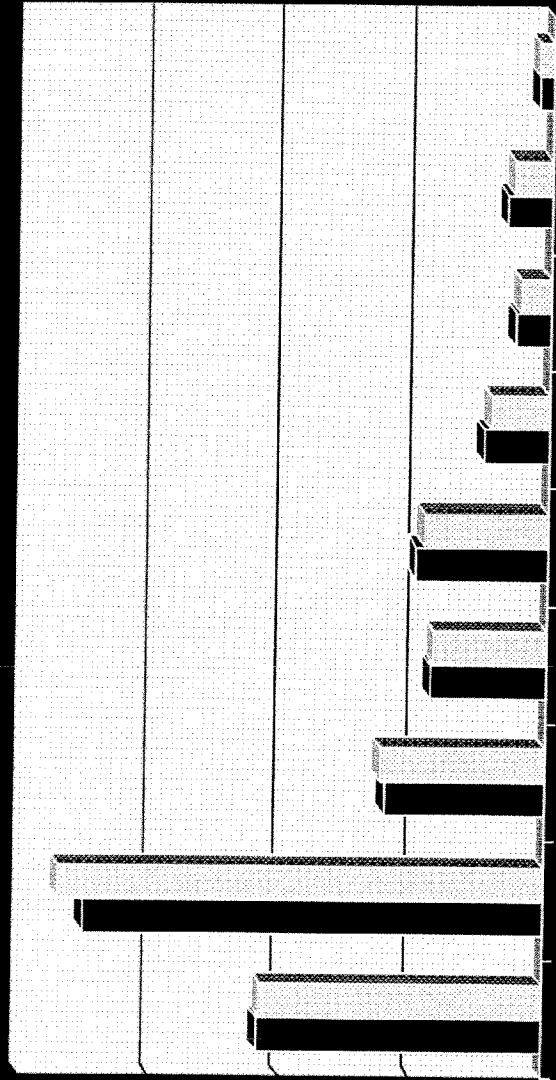
- Board uses Representative Claims
- District Court uses Representative Claims
- CAFC uses Representative Claims
- Examiner and Applicants will now use 10 representative claims to focus initial examination

Let's Look at Some More Numbers

Minimal effect on Typical Case: Average Number of Claims at Filing



Distribution of Total Claims at Filing



□

□

2. Representative Claims—cont'd

- No claim will issue without complete examination!
- Initial examination will focus on 10 representative claims
 - all independent claims
 - others as selected by applicant
 - remaining claims held in abeyance until representative claims ready for allowance
- Applicants who want immediate examination of all claims will have to:
 - Conduct a Search
 - File Examination Support Document showing patentability of all claims over closest art

2. Representative Claims—cont'd

- Comment sought on Markush-type claims
 - Should each alternative in the claim count as a separate claim?
 - Should each alternative count unless the applicant shows that each alternative includes a common structure/property/activity?
 - Office does not want to disturb appropriate use of Markush claims
 - Office does not want to create incentives to couch every claim in the alternative

Effective Date

- Effective Date of Final Rule
 - Representative claims apply to any application filed on or after the effective date of the final rule (not yet determined)
 - Representative Claims will also be used in all cases without a first office action as of the effective date of final rule
 - Applicants on file before the effective date will be given a chance to amend claims and select the representative 10

Comments?

- Comments accepted until May 3, 2006
- Continuation Rules
 - AB93Comments@uspto.gov
- Representative Claims
 - AB94Comments@uspto.gov

3. IDS Reform Coming Soon

- Will have little effect on the typical application
- At a certain point applicants will be required to discuss materiality of submitted references, e.g. when
 - Large references (over 30 pages)
 - Lots of references (over 25)
 - References submitted late in the application process

Constructive Comments Please

- Current system is not working and it cannot continue without changes
 - Most applicants use “best” practices and will be minimally affected
 - Those that don’t will have to comply with the new rules
- PTO welcomes
 - Constructive criticism, suggestions, and alternatives
 - Warnings on how applicants will attempt to game the new rules
 - But simply saying don’t change anything isn’t helpful

Thank You

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